

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

In re:

KATHLEEN GUETTNER CLAIBORNE (WISEMAN))	
Map 70, Parcels 28.01 & 94)	Roane
Residential Property)	County
Tax Year 2001)	

ORDER DISMISSING APPEAL FOR FAILURE TO PAY DELINQUENT TAX

Statement of the case

In this matter the taxpayer appeals from an initial decision and order of the administrative judge dismissing her appeal for failure to pay accrued delinquent taxes prior to a scheduled hearing. The appeal to the Commission was heard in Knoxville on June 26, 2007, before Commission members Gilliam (presiding), Ledbetter, and Sandifer.¹ Ms. Wiseman was represented by her attorney, Mr. Billy P. Sams. The assessor was represented by a deputy, Mr. Melvin Moore, and Mr. John Allen, Staff Attorney for the state Division of Property Assessments, appeared on behalf of the Division as intervenor.

As a preliminary matter in this proceeding, the taxpayer challenged the presence of Mr. Allen, asserting that his appearance was outside of the scope of the Division of Property Assessments' statutory authority. Mr. Allen insisted that insuring assessment of all property in the state in accordance with the state constitution and statutes was indeed within the Division's powers, citing Tennessee Code Annotated § 67-5-202(a)(6). The taxpayer's motion was denied because the taxpayer did not timely object to Mr. Allen's March 8, 2006, petition to intervene, and the petition states a valid basis for intervention under Tenn. Code Ann. §4-5-310 and applicable rules.

Findings of fact and conclusions of law

The tortuous path of this appeal is detailed in the initial decision and order and there is no dispute regarding the facts. It is the position of the taxpayer that annual assessments of the subject properties since 1991 are void because her appeal for that year was never resolved by the Board. On August 26 of that year Ms. Wiseman sent a letter to the State Board of Equalization seeking to appeal the decision of the Roane County Board of Equalization. The usual practice of the Board staff in response to such letters is to send an appeal form with directions that it be completed, verified and

¹ Mr. Gilliam sat as alternate for an absent member (Tenn. Code Ann. §4-5-302. An administrative judge other than the judge whose initial decision was under review, sat with the Commission. Tenn. Code Ann. §4-5-301.

returned per Tenn. Code Ann. §67-5-1412. No appeal form was ever filed, and the Board took no further action on Mrs. Wiseman's letter.

Ten years later, in August 2001, Mrs. Wiseman filed the instant appeal. Since the intervening assessments were void, she argues, the delinquent taxes that have accrued are no legal barrier to the Board's jurisdiction for 2001. For reasons expressed in the initial decision and order under review, we find and conclude that no appeal was perfected for prior years and therefore payment of accrued delinquent taxes was a condition precedent to the Board having jurisdiction of the 2001 appeal. Lacking jurisdiction, the appeal must be dismissed.

ORDER

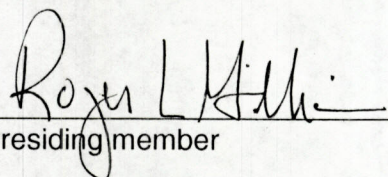
It is therefore ORDERED, that the appeal is dismissed.

This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.
Reconsideration must be requested in writing, stating specific grounds for relief and the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

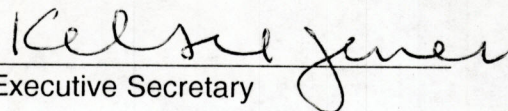
Requests for stay of effectiveness will not be accepted.

DATED: 10-25-07



Presiding member

ATTEST:



Executive Secretary

cc: Mr. Billy P. Sams, Esq.
Ms. Teresa Kirkham, Assessor